

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

In the Matter of:

UNITED SERVICES AUTOMOBILE ASSOCIATION

Administrative Proceeding No. 20-MC-THP-02001

ORDER ADOPTING REPORT OF
MARKET CONDUCT COMPLIANCE EXAMINATION

NOW COMES, the Insurance Commissioner of the State of West Virginia, and makes the following findings of fact, conclusions of law and order regarding the Report of Market Conduct Compliance Examination for the targeted examination of United Services Automobile Association (hereinafter referred to as "USAA") for the examination period ending March 31, 2020.

FINDINGS OF FACT

1. This Targeted Market Conduct Examination was instituted as a result of the Final Order entered in Administrative Proceeding 19-THP-02081. The Administrative Order concluded that USAA committed a violation of *W.Va. Code* §33-11-4(9)(d) and *W.Va. Code R.* §114-14-6.1.

2. The primary purpose of this targeted examination was to determine USAA's compliance with West Virginia Insurance laws relating to treatment of third-party claimants and to determine if any of the violations cited in Administrative Proceeding 19-THP-02081 occurred with such frequency as to constitute a general business practice. Examination information contained in the Market Conduct Report should serve only these purposes. The conclusions and findings of the Market Conduct Examination are public record.

3. The Targeted Market Conduct Examination reviewed the company's claims practices. The examination was conducted in accordance with *W.Va. Code* §33-2-9(c) by

examiners duly appointed by the West Virginia Offices of the Insurance Commissioner.

4. A total of ten (10) standards were reviewed during this targeted examination. The Company was compliant with all standards.

5. The examiner filed with the Insurance Commissioner, pursuant to *W. Va. Code* §33-2-9(j)(2), a Report of Market Conduct Examination.

6. A true copy of the Report of Market Conduct Examination was sent to USAA pursuant to *W. Va. Code* §33-2-9(j)(2).

CONCLUSIONS OF LAW

1. The Insurance Commissioner is charged by law with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 of the West Virginia Code of 1931, as amended, and the Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is conducted pursuant to and in accordance with *W. Va. Code* §§33-2-9, and 33-11-4a.

3. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with the West Virginia Code and the West Virginia Code of State Rules by USAA as well as all other provisions of regulation that USAA is subjected to by virtue of its Certificate of Authority to operate in the State of West Virginia.

4. USAA was found to be compliant with ten (10) standards tested and all standards were within the error ratio established by the NAIC *Market Regulation Handbook*. USAA did not fail any of the standards tested.

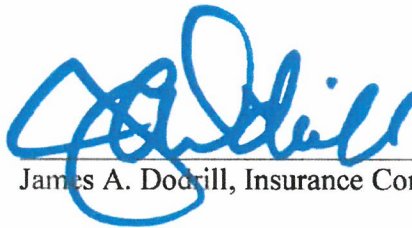
5. Therefore, the Insurance Commissioner concludes that the violations found in Administrative Proceeding 19-THP-02081 did not occur with such frequency as to constitute a general business practice.

ORDER

Pursuant to *W. Va. Code* §33-2-9(j), following the review of the Report of Market Conduct Compliance Examination, the examination work papers, and USAA's response thereto, if any, it is **ORDERED** as follows:

1. The Report of Market Conduct Compliance Examination of USAA for the period ending March 31, 2020, is hereby ADOPTED and APPROVED.
2. In accordance with *W. Va. Code* §33-2-9(j)(4), within thirty (30) days USAA shall file with the Insurance Commissioner, affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Compliance Examination and a copy of this Order.

ENTERED this 17th day of March, 2021.



James A. Dodrill, Insurance Commissioner

Report of Market Conduct Compliance Examination

As of March 31, 2020



**United Services Automobile Association
9800 Fredericksburg Rd.
San Antonio, TX 78288**

**NAIC COMPANY CODE: 25941
Examination Number: WV-WV124-9
20-MC-THP-02001**

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December 16, 2020

The Honorable James A. Dodrill,
West Virginia Insurance Commissioner
900 Pennsylvania Avenue
Charleston, West Virginia 25305

Dear Commissioner Dodrill:

Pursuant to your instructions and in accordance with West Virginia Code § 33-2-9, a Market Conduct examination has been made for the period of 01/01/2019 through 03/31/2020 on

**United Services Automobile Association
9800 Fredericksburg Rd.
San Antonio, TX 78288**

hereinafter referred to as the "Company" or "USAA". The following report of the findings of this examination is herewith respectfully submitted.

PURPOSE AND SCOPE OF THE EXAMINATION

Market conduct examiners with the West Virginia Offices of the Insurance Commissioner (WVOIC) reviewed certain business practices of United Services Automobile Association. W. Va. Code § 33-2-9 empowers the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the WVOIC.

The purpose of this targeted examination was to determine the Company's compliance with West Virginia insurance laws relating to treatment of third-party claimants. Examination information contained in this report should serve only this purpose. The conclusions and findings of this examination are public record.

The basic business areas that were reviewed and tested under this examination were:

- Claims Practices

EXECUTIVE SUMMARY

The examination began August 6, 2020 and review completed November 02, 2020. The examination was called as a result of the Final Order entered in Administrative Proceeding No. 19-THP-02081/19-AP-THP-02081. The Administrative Order concluded that the Company was non-compliant with W.Va. Code § 33-11-4(9)(d) [(9) Unfair claim settlement practices. – No person shall commit or perform with such frequency as to indicate a general business practice any of the following: (d) Refusing to pay claims without conducting a reasonable investigation based upon all available information,], W.Va. Code R. § 114-14-6.1 (Investigation of claims. -- Every insurer shall promptly conduct and diligently pursue a thorough, fair and objective investigation and may not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of a claim dispute. This section is not intended to conflict with the statutory requirements of the Medical Professional Liability Act, W. Va. Code §§ 55-7B-1 to 11, as the same relate to the assertion and investigation of medical professional liability claims.).

W. Va. Code §§ 33-11-4a(e) and (f) imply that, upon any finding that a company committed an unfair claims settlement practice with respect to a third-party claimant, the Commissioner determines whether the practice occurred with such frequency as to be construed as a general business practice of the Company. In this case, the Commissioner determined that the most efficient way to make this determination was through a targeted Market Conduct Examination. The examination primarily focused on third-party claims handling with attention to the Company's claims investigatory actions (Standard G2), duty after an investigation. Other standards from the Company Operations/Management and Claims Section of the Market Regulation Handbook were also included within this examination report which are further explained later in the report.

A total of ten (10) standards were reviewed for compliance during this examination. The company was found to be compliant with all standards.

The examination review found the Company compliant with all standards, including violations of W. Va. Code or Regulations cited in Administrative Proceeding 19-THP-02081/19-AP-THP-02081.

HISTORY AND PROFILE

The organization was originally called the United States Army Automobile Association. In 1924, the name was changed to United Services Automobile Association, when commissioned officers of other U.S. military services became eligible for membership. The company was formed based on a meeting of twenty-five United States Army Officers on June 20, 1922, at the Gunter Hotel to discuss the procurement of reliable and economical auto insurance. USAA is headquartered in northwest San Antonio, Texas.

Most of its business is conducted over the Internet or telephone using employees instead of agents. Until the 1960s the bulk of its business was conducted via mail. In the late 1960s, USAA began a transition from mail to phone-based sales and service. It launched a toll-free number in 1978, and Internet sales and service in 1999 via its website.

The organization started offering homeowner's and life insurance in the 1960s, and brokerage and investment management services in the 1970s, and banking services in the 1980s.

USAA offered restricted membership to civilians between September 2009 and August 2013. This membership provided access to USAA's investment products, most bank deposit products, and life insurance. Auto and property insurance policies were not included for non-military members due to eligibility restrictions.

The company is ranked 14th out of 93 Private Passenger Auto carriers with any state written premiums. The Company's West Virginia written premium for 2019 was \$18,539,961 with a state market share of 1.442%.

METHODOLOGY

The examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and West Virginia's applicable statutes and regulations. This is a report by test of Company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2019 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Offices of the Insurance Commissioner ("WVOIC") which

are based on applicable West Virginia statutes and administrative rules, as referenced herein. Testing is based on guidelines contained in the Handbook. All tests applied are included in this report.

The examiners used the NAIC standards of 7% error ratio on claims tests (93% compliance rate) and 10% error ratio on all other tests (90% compliance rate) to determine whether an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test. The review was limited to third-party claims. The examiner reviewed a population of twenty-five (25) paid claim files and twenty-five (25) denied/closed without payment (CWOP) claim files for compliance.

Tests designed to measure the level of compliance with West Virginia statutes, rules and regulations were applied to the files. Each area of the examination has specific elements that were tested and are listed below. As this was a third-party, targeted examination, not all standards and areas were reviewed. The examiners may not have discovered every unacceptable or non-compliant activity in which the Company is engaged. The failure to identify, comment on, or criticize specific practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its' designee. A compliance table follows containing results of each area of review with the compliance percentage for the Company and final examination results.

STANDARDS & REVIEW ELEMENTS

A7. RECORDS: Records are adequate, accessible, consistent and orderly and comply with state record retention and provided timely. (NAIC Market Regulation Handbook Chapter 20, § A Standard 7)

- Are the records adequate and accessible? [W. Va. § 33-11-4 and W. Va. Code R. §§ 114-14-3 & 15-4]

A9. RECORDS: The Company cooperates on a timely basis with the examiners performing the examination. (NAIC Market Regulation Handbook Chapter 20, § A Standard 9)

- Did the Company provide records and cooperate with examiners on a timely basis? [W. Va. § 33-2-9 and W. Va. Code R. § 114-15-1 et seq.]

G1. CLAIMS: Initial contact by the Company with the claimant is within the required timeframe. (NAIC Market Regulation Handbook Chapter 20, § G Standard 1)

- Was the claimant contacted within 15 working days (or mandated emergency order timeframe) from the date of the loss notice required by W.Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.1?

G2. CLAIMS: Timely investigations are made. (NAIC Market Regulation Handbook Chapter 20, § G Standard 2)

- Did the investigation commence within fifteen (15) working days of any claim filed as required by W. Va. Code § 33-11-4(9)(c) and W. Va. Code R. § 114-14-6.2.a?
- Did the Company promptly conduct and diligently pursue a thorough, fair and objective investigation and not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of the claim dispute as required by W. Va. Code § 33-11-4(9)(d) and W. Va. Code R. § 114-14-6.1?
- Is the investigation continuing more than 30 calendar days? If so, was a notice of necessary delay sent within 15 working days after the 30 calendar days AND if the investigation continued, were subsequent notices of necessary delay sent with 45 calendar days as required by W. Va. Code R. § 114-14-6.7?

G3. CLAIMS: Claims are resolved in a timely manner. (NAIC Market Regulation Handbook Chapter 20, § G Standard 3)

- Did the Company affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed as required by W. Va. Code § 33-11-4(9)(e)?
- Did the Company deny the claim or make a written offer within ten (10) working days of completing its investigation as required by W. Va. Code R. § 114-14-6.3?
- Did the Company pay any amount agreed upon within (15) working days as required by W. Va. Code R. § 114-14-6.11?

G4. CLAIMS: The regulated entity responds to claim correspondence in a timely manner. (NAIC Market Regulation Handbook Chapter 20, § G Standard 4)

- Did the Company reply within fifteen (15) working days to pertinent communications from a claimant which reasonably suggests that a response is needed as required by W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3?

G5. CLAIMS: Claim files are adequately documented. (NAIC Market Regulation Handbook Chapter 20, § G Standard 5)

- Do the files contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed as required by W. Va. Code R. §§ 114-14-3, 114-15-4.2a & 114-15-4.4?
- Are the communications properly dated?

G6. CLAIMS: Claims are properly handled according with policy provisions and applicable statutes, rules and regulations. (NAIC Market Regulation Handbook Chapter 20, § G Standard 6)

- Did the Company attempt in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear as required by W. Va. Code § 33-11-4(9)(f) and W. Va. Code R. §§ 114-14-6.4 & 6.10?
- Was coverage checked for proper application of deductible or appropriate exclusionary language as required by W. Va. Code § 33-11-4(9)(a)?
- Is the claimant who is neither an attorney or represented by an attorney given written notice of that statute of limitation as required by W. Va. Code R. § 114-14-6.12?
- Does the Company ensure where liability and damages are reasonably clear, that no person recommends that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract as required by W. Va. Code § 33-11-4(9)(m) and W. Va. Code R. § 114-14-6.13?
- Does the Company ensure they do not require a claimant to travel unreasonably as required by W. Va. Code R. § 114-14-6.14?
- Does the Company ensure that claim proceeds are used to pay premiums under another policy unless the insured consents as required by W. Va. Code R. § 114-14-6.16?
- Does the Company ensure, if it furnishes to the claimant the names of one or more conveniently located motor vehicle repair shop that will perform the repairs, that it doesn't require the claimant to use a particular repair shop or location to obtain the repairs as required by W. Va. Code R. § 114-14-6.18?
- Did the Company adopt and communicate to all its claims agents written standards for prompt investigation and processing of claims in accordance with W. Va. Code R. § 114-14-8 (effective 4/24/2006)?

G9. DENIED/CWOP CLAIMS: Claims are handled in accordance with policy provisions and state law. (NAIC Market Regulation Handbook Chapter 20, § G Standard 9)

- Did the Company attempt in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear as required by W. Va. Code § 33-11-4(9)(f) and W. Va. Code R. §§ 114-14-6.4 & 6.10?
- Is the denial based upon specific policy provisions or exclusions, if so, is the reason included in the denial as required by W. Va. Code § 114-14-6.5?
- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation as required by W. Va. Code § 33-11-4(9)(n)?
- Does the Company provide the claimant not represented by an attorney a written notice that the claimant's rights may be affected by a statute of

limitations to third-party claimants not less than sixty (60) days before the time limit expires as required by W. Va. Code R. § 114-14-6.12?

- Does the company refrain from recommending that a third-party claimant make claim under their own policies to avoid paying claims under an insurer's insurance policy or insurance contract as required by W. Va. Code R. § 114-14-6.13?
- Is the claimant given the option of contacting the Commissioner's Office and provided with its mailing address, telephone number, and web site address as required by W. Va. Code R. § 114-14-6.17?

G10. CLAIMS: Cancelled checks and drafts reflect appropriate claim handling practices. Payments are handled correctly. (NAIC Market Regulation Handbook Chapter 20, § G Standard 10)

- Do the checks include the correct payee and are they for the correct amount?
- Do payment checks indicate the payment is "final" when such is not the case?
- Do checks or drafts purport to release the insurer from total liability when such is not the case?

COMPLIANCE TABLE

<u>Review Section</u>	<u># Pass</u>	<u># Fail</u>	<u>Minimum Standard Compliance %</u>	<u>Compliance Result %</u>	<u>Examination Result</u>		
					Compliant	Predominantly Compliant	Non-Compliant
A7	Pass	N/A	N/A	N/A	X		
A9	Pass	N/A	N/A	N/A	X		
G1	50	0	100	100	X		
G2	50	0	93	100	X		
G3	50	0	93	100	X		
G4	50	0	93	100	X		
G5	50	0	93	100	X		
G6	6	0	93	100	X		
G9	50	0	93	100	X		
G10	50	0	93	100	X		

OBSERVATIONS

A7 – Records provided were adequate, accessible, consistent, and orderly and comply with state record retention.

A9 – Company's representatives were cooperative and timely responded to examiners requests.

G1 – All claim files reviewed indicated the claimant was contacted within fifteen (15) working days (or mandated emergency order timeframe) from the date of the loss notice.

G2 – The Company was found to be compliant for timely investigations.

G3 – The Company affirmed or denied coverage of claims within a reasonable time after proof of loss statements had been completed, denied the claims or made a written offer within ten (10) working days of completed investigation and made timely payments on any amounts agreed upon.

G4 - The company responded to all claimants within fifteen (15) working days as required by W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3.

G5 –All claim files were adequately documented.

G6 - The Company complied with policy provisions applicable statutes, rules and regulations under this standard.

G9 – The Company handled all denied/closed without payment claims in accordance with policy provisions and state law.

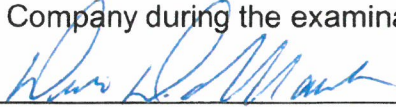
G10 – All claim file payments were handled appropriately.

RECOMMENDATIONS

The Company should continue to ensure compliance with W. Va. Code.

EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the examination.



Desiree D. Mauller, CIE, CWCP, MCM
Examiner-in-Charge

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN
EXAMINATION**

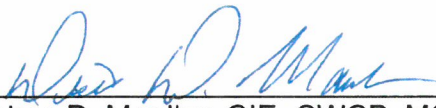
State of West Virginia

County of Kanawha

I, Desiree D. Mauller, being duly sworn, states as follows:


1. I have the authority to represent West Virginia in the examination of United Services Automobile Association.
2. I have reviewed the examination work papers and examination report, and the examination of United Services Automobile Association was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



Desiree D. Mauller, CIE, CWCP, MCM

Subscribed and sworn before me by Desiree D. Mauller this 16th day of
December 2020.



Notary Public

My commission expires: 10-11-2014

